KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
SAMUEL K. HAMMOND
Deputy Attorney General
State Bar No. 141135
110 West "A" Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2083
Facsimile: (619) 645-2061
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO July 1, 2011
BY Ian K. McGlone ANALYST

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: **MITRA TABASSIAN, D.P.M.** **32679 Seagate Drive, #202,** **Rancho Palos Verdes, CA 90275** **Podiatrist License No. E 4061** Respondent.	Case No. D1-2002-139109 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. James H. Rathlesberger (Complainant) brings this Accusation and Petition to Revoke Probation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine.

2. On or about June 10, 1997, the Board of Podiatric Medicine, Department of Consumer Affairs (Board) issued Podiatrist License Number E 4061 to MITRA TABASSIAN, D.P.M. (Respondent). The Podiatrist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed. In a Board's Decision and Order in Case No. 1B-2002-139109 effective July 6, 2006, respondent's Podiatrist

License was revoked, the revocation was stayed, and the License was placed on five (5) years probation based on certain terms and conditions.

JURISDICTION

3. This Accusation and Petition to Revoke Probation is brought before the Board, under the authority of the following laws, and under the disciplinary order issued "In the Matter of the Accusation Against Mitra Tabassian, D.P.M.," Case No.1B-2002-139109. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2222 of the Code states:

"The California Board of Podiatric Medicine shall enforce and administer this article as to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever the Medical Quality Hearing Panel established under Section 11371 of the Government Code is vested with the authority to enforce and carry out this chapter as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed doctors of podiatric medicine.

The California Board of Podiatric Medicine may order the denial of an application or issue a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension, or other restriction of, or the modification of that penalty, and the reinstatement of any certificate of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code. For these purposes, the California Board of Podiatric Medicine shall exercise the powers granted and be governed by the procedures set forth in this chapter."

5. Section 2497 of the Code states:

"(a) The board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

"(b) The board may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the board itself, the administrative law judge who presided at the hearing shall be present during the board's consideration of the case and shall assist and advise the board."

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or have such other action taken in relation to discipline as the Division of Medical Quality[1] deems proper.

7 Section 2234 of the Code states, in pertinent part, that the Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct.[2]

COST RECOVERY

8. Section 2497.5 of the Code states:

"(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

"(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

---

[1] California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal. Bus. & Prof. Code, §§ 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

[2] Unprofessional conduct is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d, 564, 575.)

"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

"(d) in any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

"(e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

"(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within one year period for those unpaid costs.

"(f) All costs recovered under this section shall be deposited in the Podiatry Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct."

FIRST CAUSE TO REVOKE PROBATION

(Failure to Complete Required CME credits)

9. At all times after the effective date of Respondent's probation in Case No. 1B-2002-139109, Condition No. 4 provided:

"4. Physicians Assessment and Clinical Training Education (PACE Program) Within 60 days of the effective date of this decision, Respondent at her own expense shall enroll in [the] PACE program and shall undergo assessment and clinical training. After a full assessment by the PACE Evaluation Committee, Respondent shall agree to participate in any recommended PACE program clinical training and shall submit to any PACE Program recommended treatment of any medical or mental condition identified in the comprehensive assessment component, and comply with all PACE Program requirements and recommendations. Respondent shall complete the PACE Program, including

recommended clinical training and/or order treatment, within six (6) months after the initial enrollment unless the BPM or its designee agrees in writing to a later date for completion of any PACE Program requirements or recommendations that may take longer to complete "

10. Respondent's probation is subject to revocation because she failed to comply with Condition 4, referenced above, in that respondent failed to complete 50 hours per year of continuing medical education (CME) credits for three (3) years as recommended by the PACE program. The circumstnces are as follows:

A. On or about January 17, 2007, the PACE program issued its report on respondent's performance in the PACE program. Because of respondent's poor performance during the Phase I aspect of the assessment and clinical training program, the PACE program recommended respondent "complete 50 hours of CME credit per year for the next three years."

B. Respondent has failed to comply with the PACE program's recommendation to complete 50 hours of CME credits per year for three years.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Pay Probation Monitoring Costs)

11. At all times after the effective date of Respondent's probation in Case No. 1B-2002-139109, Condition No. 7 provided:

"7. Probation Costs Respondent shall pay the administrative costs incurred by the BPM associated with probation monitoring each and every year of probation. Such costs shall be payable to the BPM at the end of each fiscal year. Respondent will be provided an invoice at the end of each fiscal year which must be paid within 30 days of receipt. The final invoice will be provided upon termination of probation and is due and payable within 30 days of receipt. Failure to pay such costs shall be considered a violation of probation."

12. Respondent's probation is further subject to revocation because she failed to comply with Condition 7, referenced above, in that respondent has failed to pay $4,468.42 in probation monitoring costs.

CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

13. Respondent is subject to disciplinary action for unprofessional conduct under sections 2222 and 2234, as defined in section 2234 of the Code, in that respondent engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine in that respondent has violated terms and conditions of her probation contained in the Board's Decision and Order in Case No. 1B-2002-139109, as more particularly alleged in paragraphs 9 through 12 above, which are incorporated by reference as though fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Podiatrist License Number E 4061, issued to MITRA TABASSIAN, D.P.M.

2. Revoking the probation previously granted respondent MITRA TABASSIAN, D.P.M. by the Board's Decision and Order in Case No. 1B-2002-139109;

3. Ordering, MITRA TABASSIAN, D.P.M., to pay the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2497.5, and if placed on probation, the costs of probation monitoring; and

4 Taking such other and further action as deemed necessary and proper.

DATED: July 1, 2011

JAMES H. RATHLESBERGER
Executive Officer
Board of Podiatric Medicine
State of California
Complainant

SD2010800582
80518678.docx